

ENTERED

September 14, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

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§

VS.

CRIMINAL ACTION NO. H-08-453-1

TOPANGELIA G. BINGHAM

ORDER

Topangelia Bingham moves for leave to proceed *in forma pauperis* on appeal, without prepayment of fees. (Docket Entry No. 73). Rule 24 of the Federal Rules of Appellate Procedure provides:

A party *who was permitted to proceed in forma pauperis in the district-court action, . . .* may proceed on appeal in forma pauperis without further authorization, unless:

A. *the district court*—before or after the notice of appeal is filed—*certifies that the appeal is not taken in good faith* or finds that the party is not otherwise entitled to proceed in forma pauperis and states its reasons for the certification or finding.

FED. R. APP. P. 24(a)(3) (emphasis added).

In deciding whether to grant a party leave to appeal *in forma pauperis*, a district court considers whether the party “seeks appellate review of any issue “not frivolous.” *Howard v. King*, 707 F.2d 215, 219-220 (5th Cir. 1983) (citations omitted). This appeal would be frivolous. Ms. Bingham’s criminal case is pending. This court has repeatedly denied Ms. Bingham’s repeated efforts to gain early release or other sentencing adjustments based on her sister’s need for a transplant. Ms. Bingham is unable to serve as the transplant donor, given her history and her overall

circumstances. Her sister does not wish her to serve as a donor and she is not medically or otherwise qualified to do so. There is no factual or legal basis for the relief she has repeatedly sought.

This court finds no basis for her to proceed on appeal *in forma pauperis*. The motion, (Docket Entry No. 73), is denied.

SIGNED on September 14, 2016, at Houston, Texas.


Lee H. Rosenthal
United States District Judge